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Chris Daniel - District Clerk Harris County
Envelope No. 5947690
By: Nelson Cuero
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2015-38679 / Court: 127

CAUSE NO. _____

| | | |
|-----------------------------|---|--------------------------|
| MICHELLE LYNN BRASWELL | § | IN THE DISTRICT COURT OF |
| INDIVIDUALLY AND AS | § | |
| INDEPENDENT EXECUTIX OF THE | § | |
| ESTATE OF WILLIAM MARKLEY | § | |
| BRASWELL, DECEASED, AND AS | § | |
| NEXT FRIEND OF XXXX | § | |
| XXXXXXXXXX AND XXXXXXXX | § | |
| XXXXXXXXXX, MINORS AND | § | |
| SANDRA SOUTH BRASWELL | § | |
| | § | |
| vs. | § | HARRIS COUNTY, TEXAS |
| | § | |
| THE BRICKMAN GROUP LTD. LLC | § | |
| and GUILLERMO RAFAEL BERMEA | § | _____ JUDICIAL DISTRICT |

PLAINTIFFS' ORIGINAL PETITION

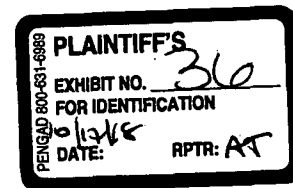
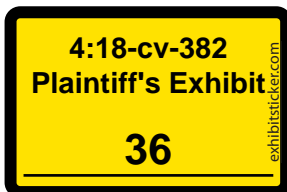
TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Plaintiffs MICHELLE LYNN BRASWELL INDIVIDUALLY AND AS INDEPENDENT EXECUTRIX OF THE ESTATE OF WILLIAM MARKLEY BRASWELL, DECEASED, AND AS NEXT FRIEND OF XXXX XXXXXXXXX and XXXXXXXX XXXXXXXXX, MINORS and SANDRA SOUTH BRASWELL, all beneficiaries who are entitled to recover under the Texas Wrongful Death Statute, and all other applicable laws, and file this Original Petition complaining of THE BRICKMAN GROUP LTD. LLC and GUILLERMO RAFAEL BERMEA (hereinafter "Defendants"), and for cause of action would respectfully show this Honorable Court the following:

I.

Pursuant to Rule 190.4 of the Texas Rules of Civil Procedure, Plaintiffs respectfully request that discovery be conducted pursuant to Level 3 and that a discovery control plan be

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entered to govern discovery in this case.

II.

Plaintiff MICHELLE LYNN BRASWELL is a resident of Harris County, Texas.

Plaintiff SANDRA SOUTH BRASWELL is a resident of Harris County, Texas.

The Plaintiffs identified above bring this action as beneficiaries entitled to recover under the Texas Wrongful Death Statute, TEX. CIV. PRAC. & REM. CODE ANN. § 71.001 *et seq.*, and all other applicable laws, and bring this action in behalf of and as representative of all beneficiaries, and reserve the right to amend the pleadings accordingly.

Defendant THE BRICKMAN GROUP LTD. LLC is a corporation, partnership, sole proprietorship, or other form of business association, doing business in the State of Texas and in Harris County, Texas, and citation can be served on its registered agent for service, or on the person designated by law to accept such service as agent for service of process: Corporation Service Company d/b/a CSC - Lawyers Incorporating Service Company; 211 E. 7th Street, Suite 620; Austin, Texas 78701-3136.

Defendant GUILLERMO RAFAEL BERMEA is a resident of Houston, Harris County, Texas and may be served with citation at his residence located at 503 Cowan, Pasadena, Texas 77506.

III.

Venue is proper in the county in which this lawsuit has been filed on the grounds that at all times material to this lawsuit and to the filing of this lawsuit, all or a substantial part

of the events or omissions giving rise to the claim occurred in Harris County, Texas; the natural person Defendant described herein resides in Harris County, Texas; and the non-natural person Defendant described herein has principal offices in Harris County, Texas.

IV.

On or about May 16, 2014, WILLIAM MARKLEY BRASWELL, now deceased, was riding his bicycle in a safe and prudent manner along N. Bridgeland Lakes Parkway in Harris County, Texas when he collided with a truck and trailer owned and operated by Defendants. Due to the serious nature of WILLIAM MARKLEY BRASWELL's injuries, he subsequently died.

Defendant THE BRICKMAN GROUP LTD. LLC and its agents, officers and employees, including but not limited to its driver, Defendant GUILLERMO RAFAEL BERMEA, for whose acts and omissions Defendant THE BRICKMAN GROUP LTD. LLC is in all things responsible, engaged in certain acts and omissions constituting negligence, and such acts and omissions, among others, are as follows:

1. In failing to keep such a lookout as a person using ordinary care would have kept;
2. In failing to properly signal a lane change;
3. In making a sudden lane change without warning;
4. In making a sudden stop without warning;
5. In stopping and/or parking the truck and trailer in a traffic lane;

6. In stopping and/or parking the truck and trailer without flashing lights in operation;
7. In stopping and/or parking the truck and trailer on the roadway without placing caution cones on the roadway;
8. In the failure of its driver GUILLERMO RAFAEL BERMEA to operate his vehicle in a reasonable and prudent manner;
9. In failing to enforce its policies and procedures with regard to the stopping and/or parking of trucks and trailers on roadways; and
10. In failing to enforce its policies and procedures with regard to motor vehicles on roadways.

At all times material to this lawsuit, Defendant GUILLERMO RAFAEL BERMEA was operating a truck and trailer owned, controlled, and/or maintained by the Defendant THE BRICKMAN GROUP LTD. LLC.

At all times material to this lawsuit, Defendant GUILLERMO RAFAEL BERMEA was an employee and/or agent of and engaged in the furtherance of the business of and in the course and scope of employment or agency relationship with the Defendant THE BRICKMAN GROUP LTD. LLC.

At all times material to this lawsuit, Defendant GUILLERMO RAFAEL BERMEA was using such truck and trailer with the actual or implied authority and permission of the Defendant THE BRICKMAN GROUP LTD. LLC, and Defendant GUILLERMO RAFAEL BERMEA was subject to the direction and control of and in the furtherance of a mission for the benefit of the Defendant THE BRICKMAN GROUP LTD. LLC.

V.

The acts and omissions constituting negligence described herein were each a proximate cause of the occurrence in question, the death of WILLIAM MARKLEY BRASWELL, and the injuries and damages sustained by the Plaintiffs.

VI.

As a result of the incident and the death of WILLIAM MARKLEY BRASWELL, Plaintiffs MICHELLE LYNN BRASWELL INDIVIDUALLY AND AS INDEPENDENT EXECUTRIX OF THE ESTATE OF WILLIAM MARKLEY BRASWELL, DECEASED, AND AS NEXT FRIEND OF XXXX XXXXXXXXX and XXXXXXXX XXXXXXXXX, MINORS and SANDRA SOUTH BRASWELL have sustained substantial damages as described below.

At the time of the occurrence, WILLIAM MARKLEY BRASWELL, deceased, was 43 years of age, was in good health, and had a life expectancy of 38.7 years, according to the applicable United States Life Tables, a certified copy of which will be used in evidence at the trial of this case. WILLIAM MARKLEY BRASWELL was the husband of Plaintiff MICHELLE LYNN BRASWELL; the father of Plaintiffs XXXX XXXXXXXXX and XXXXXXXX XXXXXXXXX, MINORS; and the son of Plaintiff SANDRA SOUTH BRASWELL. At the time of his death, WILLIAM MARKLEY BRASWELL was in good health and was employed and earning an income.

As a result of such occurrence, WILLIAM MARKLEY BRASWELL, prior to his

death, suffered severe and substantial conscious physical pain and mental anguish as a result of the incident, and MICHELLE LYNN BRASWELL, as Independent Executrix of her husband's estate, sues for such damages.

As a further result of this occurrence, Plaintiff MICHELLE LYNN BRASWELL has sustained in the past, and in reasonable probability will sustain in the future, substantial pecuniary loss, including the loss of care, maintenance, support, services, household services, advice, counsel, and reasonable contributions of a pecuniary value that she would, in reasonable probability, have received from her husband, WILLIAM MARKLEY BRASWELL, had he lived.

As a further result of this occurrence, Plaintiff MICHELLE LYNN BRASWELL has sustained in the past, and in reasonable probability will sustain in the future, the loss of companionship and society, including the loss of the positive benefits flowing from the love, comfort, companionship, and society that she would, in reasonable probability, have received from her husband, WILLIAM MARKLEY BRASWELL, had he lived.

As a further result of this occurrence, Plaintiff MICHELLE LYNN BRASWELL has sustained in the past, and in reasonable probability will sustain in the future, significant mental anguish, including the emotional pain, torment, and suffering experienced by her because of the death of her husband WILLIAM MARKLEY BRASWELL.

As a further result of this occurrence, MICHELLE LYNN BRASWELL has sustained a loss of inheritance, including the loss of the present value of the assets that the deceased,

in reasonable probability, would have added to the estate and left at his natural death to MICHELLE LYNN BRASWELL.

As a further result of this occurrence, Plaintiffs XXXX XXXXXXXXXX and XXXXXXXX XXXXXXXXXX, MINORS, have sustained in the past, and in reasonable probability will sustain in the future, substantial pecuniary loss, including the loss of care, maintenance, support, services, education, advice, counsel, and contributions of pecuniary value that they would in reasonable probability have received from their father, WILLIAM MARKLEY BRASWELL, in his lifetime had he lived. They have further sustained in the past and in reasonable probability will sustain in the future, the loss of companionship and society, including the loss of the positive benefits flowing from the love, comfort, companionship, and society that they would, in reasonable probability, have received from their father, WILLIAM MARKLEY BRASWELL, had he lived; and have sustained in the past, and in reasonable probability will sustain in the future, significant mental anguish, including the emotional pain, torment, and suffering experienced by them because of the death of their father WILLIAM MARKLEY BRASWELL.

As a further result of this occurrence, Plaintiffs XXXX XXXXXXXXXX and XXXXXXXX XXXXXXXXXX, MINORS have sustained a loss of inheritance, including the loss of the present value of the assets that the deceased, in reasonable probability, would have added to the estate and left at his natural death to his children.

Plaintiff MICHELLE LYNN BRASWELL, as next friend, sues for damages sustained by Plaintiffs XXXX XXXXXXXXXX and XXXXXXXX XXXXXXXXXX, MINORS.

As a result of this occurrence, Plaintiff SANDRA SOUTH BRASWELL has sustained

in the past, and, in reasonable probability, will sustain in the future, a substantial pecuniary loss, including the loss of the care, maintenance, support, services, advice, counsel, and reasonable contributions of a pecuniary value, that she would, in reasonable probability, have received from her son WILLIAM MARKELY BRASWELL had he lived.

As a further result of this occurrence, Plaintiff SANDRA SOUTH BRASWELL has sustained in the past, and, in reasonable probability, will sustain in the future, the loss of companionship and society, including the loss of the positive benefits flowing from the love, comfort, companionship, and society that she would, in reasonable probability, have received from her son WILLIAM MARKELY BRASWELL had he lived.

As a further result of this occurrence, Plaintiff SANDRA SOUTH BRASWELL has sustained in the past, and, in reasonable probability, will sustain in the future, significant mental anguish, including the emotional pain, torment, and suffering experienced by her because of the death of her son WILLIAM MARKLEY BRASWELL.

In view of all matters alleged herein, the sum of money, if paid now in cash, that would fairly and reasonably compensate the Plaintiffs for actual damages is a sum of money substantially in excess of the minimum jurisdictional limits of this Court and to be determined by the jury and in excess of One Million and No/Hundredths (\$1,000,000.00) Dollars.

Plaintiffs plead for any and all prejudgment and post-judgment interest.

VII.
Jury Demand

Plaintiffs request a trial by jury and tenders herewith their jury fee.

Prayer

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that the Defendants be cited to appear and answer herein; that upon trial hereof Plaintiffs have judgment of the Court against the Defendants in an amount in excess of the jurisdictional limits of this Honorable Court and in an amount in excess of One Million and No/Hundredths (\$1,000,000.00) Dollars, together with pre-judgment and post-judgment interest as provided by applicable law. Plaintiffs further pray for all costs of court; and for all such other and further relief, both general and special, legal and equitable, to which they have shown or may show themselves justly entitled.

Respectfully submitted,

MITHOFF LAW

/s/ Janie L. Jordan.

RICHARD WARREN MITHOFF

State Bar No. 14228500

JANIE L. JORDAN

State Bar No. 11012700

JOSEPH R. ALEXANDER, JR.

State Bar No. 00995150

WARNER V. HOCKER

State Bar No. 24074422

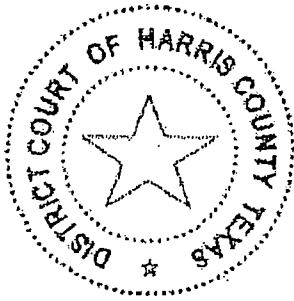
Penthouse, One Allen Center

500 Dallas, Suite 3450

Houston, Texas 77002

(713) 654-1122

(713) 739-8085 [FAX]



I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office this July 10, 2015

Certified Document Number: 66095616

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com